

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL ANTHONY SIMMONS,)
Petitioner,) No. C 07-2339 CRB (PR)
v.) ORDER OF DISMISSAL
BEN CURRY, Warden,)
Respondent.)

This action for a writ of habeas corpus under 28 U.S.C. § 2254 was filed on April 30, 2007. The court notified petitioner in writing on that date that the action was deficient because he did not pay the requisite \$5.00 filing fee or, instead, submit a signed and completed court-approved in forma pauperis application, including a completed certificate of funds in the prisoner's account and a copy of the prisoner's trust account statement for the last six months. Petitioner was advised that failure to file the requested items within 30 days would result in dismissal of the action.

More than 40 days have elapsed. However, petitioner still has not filed the requisite items, or sought an extension of time to do so. The action is DISMISSED without prejudice to filing a new habeas action accompanied by the requisite \$5.00 filing fee or a signed and completed in forma pauperis application.

The clerk shall enter judgment in accordance with this order, terminate all pending motions as moot and close the file. No fee is due.

SO ORDERED.

DATED: June 12, 2007



CHARLES R. BREYER
United States District Judge